

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALICIA CUETO MELENDEZ,

Plaintiffs,

vs.

No.

ISRAEL ANTONIO DEMOULIN, and
SWIFT TRANSPORTATION CO. OF ARIZONA LLC,

Defendants.

**NOTICE OF REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO**

COME NOW the Defendants, Israel Antonio De Moulin and Swift Transportation Co. of Arizona, LLC (“Swift”) (collectively “Defendants”), by and through their attorneys of record, YLAW, P.C., and file this Notice of Removal, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441, for the removal of this action from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiff filed this civil action against Defendants in the Second Judicial District Court, County of Bernalillo, State of New Mexico. Pursuant to D.N.M. LR-CIV 81.1, a copy of the Complaint for Personal Injury is attached hereto as **Exhibit A**.

2. Upon information and belief, Plaintiff is a citizen of Mexico. Plaintiff is currently residing in Bernalillo County, State of New Mexico. *See* Ex. A, ¶ 1.

3. Defendant Israel Antonio De Moulin is a citizen and resident of California, and is domiciled in California. *See* Ex. A ¶ 2.

4. Swift Transportation Co. of Arizona, LLC is a Delaware Limited Liability Company with its principle place of business in Arizona. *See* Ex. A, ¶ 3, and Corporate Disclosure Statement, filed concurrently. As a limited liability company, Swift Transportation Co. of Arizona, LLC’s “citizenship is determined by reference to the citizenship of each and every one of its members.” *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1235-36 (10th Cir. 2015).

5. Swift Transportation Co. of Arizona, LLC is wholly owned by Swift Transportation Co., LLC. *See* Corporate Disclosure Statement, filed concurrently with this Notice of Removal. Swift Transportation Co., LLC is a Delaware Limited Liability Company with its principle place of business in Arizona, which is wholly owned by Swift Transportation Co., Inc. *See id.* Swift Transportation Co., Inc. is a Delaware Corporation, with its principle place of business in Arizona. Swift Transportation Co. of Arizona, LLC, is therefore a citizen of Delaware and Arizona. *See* Corporate Disclosure Statement, filed concurrently.

6. As a result, for purposes of 28 U.S.C. 1332(a), there is complete diversity of citizenship between Plaintiff and Defendants.

7. Plaintiff’s Complaint does not allege the amount of damages incurred or the amount in controversy. *See* Ex. A.

8. By correspondence dated February 2, 2021 from Plaintiffs’ counsel, it is clear the amount in controversy exceeds the jurisdictional limit of \$75,000.00.

9. The settlement demand letters sent on behalf of Plaintiff shows the amount in controversy for Plaintiff's claims exceed the jurisdictional threshold of \$75,000.00. *See McPhail v. Deere & Co.*, 529 F.3d 947, 954 (10th Cir. 2008) (finding that a defendant may meet its burden of proof by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00 by looking at a plaintiff's settlement demand).

10. Although Defendants do not admit that Plaintiffs have been damaged in any amount as the result of any acts or omissions of Defendants, the amount in controversy exceeds \$75,000.00.

13. Plaintiffs' Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by Defendants under the provisions of 28 U.S.C. §1441 in that:

- a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and
- b. The matter in controversy is between citizens of different states.

14. The Notice of Removal was filed with this Court within thirty (30) days after service of the Complaint and after Defendants had a good faith basis to assert that all requirements were satisfied. *See* Acceptance of Service, attached as **Exhibit B**.

15. Defendants, immediately upon the filing of this Notice of Removal, gave written notice of the filing as required by 28 U.S.C. §1446 (d) and filed a copy thereof with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

16. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, the Defendants Israel Antonio De Moulin and Swift Transportation Company of Arizona, LLC request that the above-entitled action be removed from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to this United States District Court for the District of New Mexico.

Respectfully Submitted,

YLAW, P.C.

/s/ Brett C. Eaton

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**Attorneys for Defendants,
Israel Antonio De Moulin and
Swift Transportation Co. of
Arizona, LLC**

I HEREBY CERTIFY that on the 9th day of February 2022, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Raul A. Lopez
raulalopezlaw@outlook.com

/s/ Brett C. Eaton

S. Carolyn Ramos
Brett C. Eaton